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Attorneys for Plaintiff-Counterclaim Defendant

NETWORK APPLIANCE, INC.,

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

NETWORK APPLIANCE, INC.

Plaintiff-Counterclaim Defendant,

v.

SUN MICROSYSTEMS, INC.

Defendant-Counterclaim Plaintiff.

Case No. 3:07-CV-06053-EDL

**JOINT REPORT RE: CLAIM
CONSTRUCTION HEARING LOGISTICS**

1 Pursuant to the Court's June 17, 2008 Order Regarding Claim Construction,
2 Plaintiff/Counterclaim Defendant NetApp, Inc. and Defendant/Counterclaim Plaintiff Sun
3 Microsystems, Inc. jointly submit this report concerning logistics for the August 27, 2008 Claim
4 Construction Hearing.

5 Term-by-Term Presentation: The parties agree with the Court that both parties
6 should present their arguments concerning a given term before moving on to a subsequent term.

7 Experts: The parties agree with the Court that experts should be available for
8 questions by the Court at the claim construction hearing. The parties further agree that it is
9 premature for them to elect whether to call experts for direct or cross examination during the
10 claim construction hearing. The parties agree to confer about this issue after claim construction
11 briefing is complete and to make a further report to the Court at that time.

12 Length of hearing: In light of the number and complexity of the issues before the
13 Court, the parties request jointly that the Court schedule the hearing from 9 am to 4 pm, with a
14 one-hour lunch break.

15 Tutorial: The parties request jointly that the Claim Construction Tutorial,
16 presently scheduled for August 4, 2008, be taken off calendar. Because the technical background
17 underlying the claim construction issues presently before the Court can best be illuminated in the
18 context of those disputes, the parties believe that they and the Court will be better served by
19 having the parties address the technical background in the course of their arguments during the
20 Claim Construction Hearing. Moreover, because the technical background of the patents-in-suit
21 is closely tied to the claim construction disputes, a tutorial would simply amount to essentially the
22 first day of a two-day, contested *Markman* hearing.

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1 Dated: July 14, 2008

WEIL. GOTSHAL & MANGES LLP

2 /s/ Jeffrey G. Homrig

3 Matthew D. Powers

4 Edward R. Reines

5 Jeffrey G. Homrig

6 Jill J. Ho

7 Attorneys for NetApp., Inc.

8 Dated: July 14, 2008

DLA PIPER US LLP

9 /s/ Christine K. Corbett

10 Mark D. Fowler

11 David Alberti

12 Christine K. Corbett

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14 Carrie L. Williamson

15 Attorneys for Sun Microsystems, Inc.